

Business Valuation in Divorce

From *What's the Business Worth?* by James Nelson

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One page to take into your first meeting. Gather the documents, ask any valuer the questions before instructing them, and raise the last set of points with your solicitor. Chapter references are to the book.

1 Documents a valuer needs

Most of these come from the accountant's file and the bookkeeping software (Ch 9).

- ☐ Full statutory accounts, last three years (not the Companies House version)
- ☐ Current management accounts, as up to date as possible
- ☐ Corporation tax returns and computations, three years
- ☐ Owner's personal tax returns, three years
- ☐ Business bank statements, at least the last 12 months
- ☐ Aged debtors and aged creditors reports, latest date
- ☐ Lease of the premises, or the title if the property is owned
- ☐ Shareholders' agreement and articles of association
- ☐ Partnership deed or LLP members' agreement, if any
- ☐ Main customers and each one's share of turnover, plus key contracts
- ☐ Staff list: roles, pay, length of service, family members
- ☐ Owner's full pay and benefits: salary, dividends, pension, car
- ☐ Any past valuation, offer or approach, however informal
- ☐ The valuer's business questionnaire, answered properly

2 Questions to ask a valuer

Before instructing anyone, for a joint or a private report (Ch 3 and 9).

- ☐ What is your experience with businesses of this size and sector?
- ☐ How many divorce valuations have you done, and have they been relied on in court?
- ☐ Do you have any connection with either party, the business, its accountants or either solicitor?
- ☐ Which methods will you use, and why?
- ☐ Can I see a sample report?
- ☐ What is the fixed fee, what does it include, and what is extra?
- ☐ How long from receipt of the documents to the report?
- ☐ Will the report list everything you were given?
- ☐ Is one round of written questions included in the fee?
- ☐ Do you give oral evidence, and if not, what happens at a final hearing?
- ☐ How will you deal with any freehold property the business owns?
- ☐ How will the report deal with tax on realisation?

3 Points to raise with your solicitor

The questions that decide whether the business figure turns into a settlement that works (Ch 1, 2, 6 and 7).

- ☐ Is a formal valuation proportionate to the gap between our two figures?
- ☐ Should we start with an indicative valuation, or go straight to a single joint expert?
- ☐ Did any of the business exist before the marriage, and does that matter here?
- ☐ How liquid is the business, and how would any payment be funded?
- ☐ Should the risk be shared through Wells sharing rather than a fixed sum?
- ☐ Is the same profit being counted twice, once in the value and again in maintenance?
- ☐ What tax would arise on extraction or sale, and do we need a tax adviser?
- ☐ Is a minority discount relevant to this shareholding?
- ☐ Is there a post-separation dip in profits, and has it been explained?
- ☐ What questions should go in the letter of instruction to the expert?